



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

(A-18J)

JUN 23 2000

Lloyd L. Eagan, Director
Bureau of Air Management
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707

Dear Ms. Eagan:

Thank you for your letter of May 31, 2000, regarding two issues raised by the Wisconsin Natural Resources Board. The first issue requests a legal opinion on the need for rate-of-progress emission reduction in Wisconsin and the second issue deals with the State's ability to take credit toward rate-of-progress for voluntary reductions at industrial sources. Legal counsel and technical staff were consulted in responding to the issues you have raised.

Section 182(c)(2) of the Clean Air Act (CAA) requires that any serious and above ozone nonattainment area submit a State Implementation Plan (SIP) that includes, among other items, (1) an attainment demonstration, based on photochemical grid modeling, that provides for attainment of the 1-hour ozone standard by the area's *applicable attainment date*, and (2) a demonstration that the plan will achieve volatile organic compound (VOC) emission reductions from the 1990 baseline that equals at least 3 percent per year averaged over each consecutive 3 year period from 1996, until the area's *attainment date*. The CAA also provides for substitution of NOx reductions for the required VOC reductions.

In addition, the United States Environmental Protection Agency's (USEPA) guidance "Post-1996 Rate-of-Progress Plan Guidance for Ozone Nonattainment Areas," issued on January 24, 1994, further states that "if an areas attainment demonstration shows that it will attain before the statutory attainment date, the post-1996 rate-of-progress plan is only required to extend to the *demonstrated attainment date*." Thus, rate-of-progress is required to the area's statutory attainment date, unless the area demonstrates attainment earlier through complete photochemical grid modeling, in which case rate-of-progress is only required until the *modeled attainment date*.

As you know, the Milwaukee-Racine area is a severe-17 ozone nonattainment area with a statutory attainment date no later than

2007. Given the statutory language and considering the guidance discussed above, the Milwaukee-Racine area must submit a SIP that demonstrates modeled attainment no later than 2007, and provides for rate-of-progress reductions through the modeled attainment date at a rate of 3 percent per year averaged over 3 years through 2007. So, if the area could demonstrate attainment earlier than 2007, based on photochemical grid modeling, including accurate inventories, then rate-of-progress emission reductions would only be required through the modeled attainment date. The CAA also provides for rate-of-progress reductions of less than 3 percent per year averaged over 3 years if the area implements the measures required of the next higher classification, i.e. for the Milwaukee-Racine area that means implementation of requirements for the extreme classification such as lower source threshold and higher offset ratios for new or modified source permitting. Therefore, even though a State may be able to demonstrate modeled attainment with a group of measures (e.g., the NOx SIP Call, Tier 2 vehicle emission standards and low sulfur gasoline-measures which do not provide for the required rate-of-progress), additional measures must be adopted and implemented in order to achieve the separate rate-of-progress requirement of 3 percent per year averaged over 3 years, through the modeled attainment date.

The second issue asks the USEPA to identify the types of voluntary emission reduction programs at industrial sources that would be creditable toward the rate-of-progress requirement. Please be advised that the USEPA is in the process of developing a policy that would allow States to take credit for voluntary emission reductions in a SIP, such as the rate-of-progress plan. A draft policy has recently been released for public review and is enclosed. Region 5 is available to work with Wisconsin to develop a SIP revision that would allow credit for voluntary emission reductions at stationary sources in accordance with the final policy.

I hope that this information is helpful to you and look forward to working with you on the attainment demonstration and rate-of-progress plans for the 1-hour ozone standard. If you have any questions, please feel free to contact Jacqueline Nwia, of my staff, at (312) 886-6081.

Sincerely,



Bharat Mathur, Director
Air and Radiation Division

Enclosure

